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## Municipal E-News: Issue 5: August 2009

MTAS

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Photo compliments of the Town of Greeneville

## City Spotlight: Greeneville

*Greeneville, the fifth city incorporated in Tennessee, was once the capital of the state of Franklin, a short-lived attempt to create a separate state comprising land ceded by North Carolina. The state of Franklin existed from 1784 to 1788. Greeneville was also home of Andrew Johnson, 17th President of the United States.*

**Date of Incorporation:**

1795

**Population:**

15,274

**County:**

Greene

**Grand Division:**

East

**Web site:**

<http://www.greenevilletn.org/>

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## Tennessee Clean Energy Future Act of 2009

You already may be aware that the Tennessee General Assembly passed and the governor has signed into law Senate Bill 2300 / House Bill 2318, commonly referred to as the 2009 Energy Bill. With passage, the act is now known officially as the Tennessee Clean Energy Future Act of 2009. All portions of the bill that will affect local government will not become effective until **July 1, 2010**. This means that you have plenty of time to learn about the opportunities and options that will be provided to cities and will be available under the provisions of this act.

MTAS currently is working with the Department of Commerce and Insurance, the Department of Economic and Community Development and the Tennessee Valley Authority to develop a comprehensive training package that will help make intelligent and educated decisions regarding this legislation. Our recommendation to you at this time is to take no action until you attend one of the seminars that will be offered by MTAS. At these educational sessions, copies of the law and other important materials will be provided to you. The seminars will be offered in the fall of 2009 so that you will have plenty of time to take any action your city desires before the July 1, 2010, effective date.

A "Hot Topic" bulletin is being developed at this time and should be available soon. This bulletin will summarize the law and provide you with the most up-to-date information on any administrative action, such as rule making hearings, that can be anticipated. In addition, MTAS will keep you abreast of news and further emerging issues through e-mail, our newsletter, our Web site, and by providing information directly through our management consultants.

As always, MTAS will develop sample ordinances and resolutions that you will need when you have decided on what options and opportunities you will take advantage of from this new legislation. We look forward to working with you on this and other important municipal issues.

*Mike Tallent, MTAS Executive Director*



## Goodlettsville Withstands Motion to Dismiss in Hotel/Motel Tax Case

*Dennis Huffer, MTAS Legal Consultant*

In a ruling that looks good for the full collection of hotel/motel taxes from Internet travel companies, the U. S. District Court for the Middle District of Tennessee has refused to dismiss the City of Goodlettsville's class action lawsuit, brought on behalf of Tennessee cities, seeking payment from these companies of the occupancy tax on the full amount charged by the companies to the consumer. *City of Goodlettsville on behalf of itself and others v. Priceline.com, et al.*, 605 F. Supp.2d 982 (March 31, 2009).

Internet travel companies buy rooms from hotels at wholesale rates and sell them to consumers at retail rates. The companies remit to the city levying the hotel/motel tax an amount based upon the wholesale rate at which they buy the room. They do not remit a tax to the city based upon the amount at which they sell the room to the consumer, although apparently they collect this part of the tax. This latter amount is what Goodlettsville is seeking.

The court ruled that the city was not required to exhaust administrative remedies to get its day in court. The court also ruled that these Internet travel companies are "operators" within the city's tax ordinance and that the entire amount collected by the companies is subject to the tax. Further, the court ruled that Goodlettsville had stated claims for unjust enrichment, as well as conversion, against these companies.

Since this ruling was in response to the Internet companies' motion to dismiss, it does not end this case. It does, however, give a good indication of how the district judge views the issues. A final result in the district court can be appealed to the Sixth Circuit Court of Appeals, so it may be some time before there is a final ruling. At the moment, however, the case is looking good for Tennessee cities.

## MTAS Staff Highlight

### Meet Gary Jaeckel, MTAS Municipal Management Consultant

Gary Jaeckel is a municipal management consultant serving cities primarily in the upper portion of middle Tennessee. He has been with MTAS since 1999. Jaeckel has an M.P.A. degree and a B.S. in political science from Northern Illinois University.



Prior to coming to MTAS Jaeckel served in several communities in Illinois over a 14-year career. He was a city administrator in Dwight and Forsyth, an assistant city manager in the Chicago suburb of Streamwood and an assistant to the city manager in Elmhurst. Prior to starting his career in city management Jaeckel worked for a large insurance company in sales and as manager of a retail business.

Jaeckel lives in Hendersonville with two of his three sons. Adam and Eric currently attend Volunteer State Community College while the youngest, Brett, will be a senior at Hendersonville High School. Jaeckel enjoys the variety of concerns and questions presented by cities as well as the nature of city charters in Tennessee, which makes each situation unique and challenging. Jaeckel teaches a number of Elected Officials Academy classes every year, along with a number of strategic planning sessions for his clients. He views his role as that of a coach in many ways. Jaeckel believes that MTAS consultants are there to help each city achieve the best performance, in the best possible way for that community, and to ultimately achieve success.

In his spare time Jaeckel is involved in youth wrestling. For the last 10 years he has developed and coached a youth wrestling program in Hendersonville. He has been all over the eastern half of the country attending wrestling tournaments with his wrestlers. In addition to working with the youth program, Jaeckel helps out with the local high school program, helping coach the young men and women who are on the Hendersonville High School team. When he's not spending his weekends in a gym, he enjoys fishing, camping, and the occasional cliff jumping at various Tennessee state parks.

Jaeckel may be contacted at [gary.jaeckel@tennessee.edu](mailto:gary.jaeckel@tennessee.edu) or 615-253-4814.

# Innovation Corner



## Germantown's Managed Competition Strategy

*By Stacey Ewell, Public Information Officer, City of Germantown with Rick Whitehead, MTAS Municipal Management Consultant*

In keeping with its comprehensive plan, the city of Germantown adopted a managed competition policy as a strategic tool to help provide quality services in the most cost effective manner. Savings and efficiencies gained as a result of its implementation have allowed the city to reallocate resources to better benefit Germantown residents.

The goal of managed competition is to identify the most cost-effective and efficient service delivery option regardless of service provider. This may be privatizing the service, partnering with other agencies for the service, re-engineering city units, or bringing previously privatized service back into the city's operation.

The process includes the creation of two teams: the personnel review team and the business process improvement team. Among other things, the teams review open city positions to determine if there is another, more cost-effective option.

Consistent with good business practices found in private industry, Germantown's key business units are each required to create annual business plans. These plans not only increase employee awareness and involvement in the city's collective goals, they also provide performance metrics necessary to meet the overall mission for each key unit. The plans also support the annual budget planning process by tying available resources to city goals. Business units now are benchmarked with private industry and other municipalities and, therefore, have a broader understanding of where their individual departments stand in terms of service level, priorities and core functions.

*(Continued on page 5)*

## Welcome Emily Keyser to MTAS!

Emily Keyser was hired by MTAS initially as a temporary employee to fill a vacancy in the codes department and was officially hired as a full-time Administrative Support Assistant III in the department in June 2009.



Keyser graduated from UT Knoxville in 2004 with a B.A. in English. A highlight of her time at UT as an undergraduate was attending the University of Helsinki as an exchange student. Since then, she has worked with middle school students through Americorps at the Emerald Youth Foundation, a Knoxville-based after-school/summer mentoring/tutoring program. Keyser also has worked in retail management at several local Knoxville businesses. In her free time, Keyser enjoys photography, traveling, and trying new foods.

## Municipal IT Professionals

### Join LOGITT

*Justin O'Hara, MTAS Information Technology Consultant*

"Local Government Information Technology in Tennessee" is a growing organization for Tennessee information technology professionals. The group is primarily municipal and county employees with a current membership of 53 (21 from East, 27 from Middle, and 5 from West Tennessee).

The vision of LOGITT is to "act as a proactive organization for IT Professionals for the participation and benefit of government entities throughout the State of Tennessee," which includes networking, sharing best practices and vendor solutions. Its members currently are participating in regional roundtables as well as an annual meeting of all members.

If you would like to join LOGITT or need additional information please visit <http://www.logitt.org>.

You also may contact Justin O'Hara at 865-974-0628 or [justin.ohara@tennessee.edu](mailto:justin.ohara@tennessee.edu).





## The Fair Labor Standards Act: Revised and Updated

Richard Stokes, MTAS Human Resources Consultant

The Fair Labor Standards Act (FLSA) has been modified over the past couple of years. The act is like a deserted mine field waiting for the uninformed and complacent. The liabilities can be significant to any organization and affect every employee in some fashion. Employees claiming FLSA violations can sue you for their unpaid minimum wages or their unpaid overtime compensation and the recovery of back wages and liquidated damages.

The changes include a graduated schedule designating the minimum wage at \$7.25 effective July 24th of this year. They also include new definitions regarding which employees must be paid a minimum wage and premium overtime wages when they work more than 40 hours a week.

Modifications also have been made in the old exemption tests for each category of exempt employees by adopting a single standard duties test for each exemption category rather than the existing long and short duties tests. The new rules provide three standards to be met for the exemption to apply: (1) the salary basis test, (2) the salary level test and (3) the duties test.

The MTAS publication *Fair Labor Standards Act: Revised and Updated* will give you the information and guidance your city needs to avoid the pitfalls and to stay up to date on the regulations.

[Click here](#) to read or download this publication from the MTAS Web site.

For questions regarding FLSA, contact Richard Stokes, MTAS Human Resources Consultant, at [richard.stokes@tennessee.edu](mailto:richard.stokes@tennessee.edu) or 615-532-4956.

## Sparta Tackles Big Issues

Sharon Rollins, MTAS Consulting Manager

The city of Sparta tackled some big public works and utility issues over the past several months and set in motion significant changes that impact all city residents and businesses. MTAS assisted.

First, the city moved to become more efficient and self-sufficient in refuse collection and disposal. Prior to December 2008, the city collected residential refuse from 2,300 customers five days a week via rear loaders staffed by three-person crews. Old equipment was worn out, and the city needed to make a decision on continuing collection via rear loaders or switching to an automated loader and carts.

The governing body made the decision to modernize residential refuse collection by switching to automated collection equipment.

Prior to switching, refuse collection for residential and commercial customers was paid entirely from the city's general fund. The governing body implemented a refuse collection/



*Photo used with permission*

disposal fee for both residential and commercial customers to cover the costs of operation. The changeover occurred with few complaints because the city did an excellent job of communicating and working with citizens and business owners. The city is now



*Sparta employees Gaines Key and Terry Bailey*

generating \$360,000 per year in solid waste fees which is a cost reduction to the city's general fund. The city also is picking up residential garbage three days a week instead of five. The change reduced the man-hours in the sanitation department from 105 hours a week to 36 hours a week. According to Marty Carmichael, Sparta City Administrator, "the whole program was a no-brainer!"

Next, the city needed to upgrade water and wastewater infrastructure to satisfy regulatory mandates and to catch up on maintenance. MTAS provided a utility rate study that included a capital budget for five large water and sewer projects and 10 pieces of equipment with a price tag of \$7.6 million. Utilities also

*(Continued on page 5)*

## MTAS Joins the 25 x '25 Coalition

Warren Nevad, MTAS Municipal Management Consultant

MTAS has joined several state agencies, nonprofits, and businesses to help the state of Tennessee develop an action plan to meet the national goal of having **25 percent of the nation's energy production derived from renewable resources by the year 2025**.

Pulling together to help develop a national action plan are the Tennessee Department of Agriculture, the Tennessee Department of Economic and Community Development and the Tennessee Farm Bureau Federation.

The Tennessee State Alliance action plan will outline specific steps needed to put Tennessee on the path to achieve the 25x '25 goal. Specifically, the action plan calls for supportive policies in each of five areas:

- Increasing production of renewable energy;
- Delivering renewable energy to markets;
- Expanding renewable energy markets;
- Improving energy efficiency and productivity;
- Strengthening conservation of natural resources and the environment.

Warren Nevad, MTAS Municipal Management Consultant, gave a presentation on July 23 to the State Alliance outlining MTAS's and the Tennessee Renewable Energy and Economic Development Council's recent efforts to help support and promote renewable energy for Tennessee's cities and counties.

For more information, please visit <http://www.25x25.org>.

*(Managed Competition continued from page 3)*

Germantown's managed competition is a work in progress. Efforts are ongoing to better refine their managed competition model by identifying new opportunities to improve efficiencies and produce cost savings while avoiding property tax increases.

For more information contact Michael Saddler, Managed Competition Director, at [msaddler@germantown-tn.gov](mailto:msaddler@germantown-tn.gov) or 901-757-7324.

## From the Attorney General ...

Josh Jones, MTAS Legal Consultant

### ***Removal of Bail Bondsmen from Approved List*** (Opinion No. 09-100)

Upholds a district attorney general's authority to seek removal of bail bondsmen from the approved list. Also states that a city court with general sessions jurisdiction may remove bondsmen from the list of bondsmen authorized to make bail in city court without approval from circuit court. Finally, states that a city court with general sessions jurisdiction has inherent authority to initiate, upon its own motion, removal proceedings against a bail bondsman.

### ***Emergency Services Boards Joint Agency Under Interlocal Cooperation Act*** (Opinion No. 09-107)

In the context of a specific county-city arrangement, provides that an interlocal agreement could create an emergency services board intended to be a joint agency pursuant to the Interlocal Cooperation Act. An entity created under this act could provide fire and emergency medical services, and the appointment of the director would be governed by the interlocal agreement. Furthermore, if this entity is providing services as an urban-type public facility it would not be subject to the provisions governing countywide fire departments. Finally, it would be appropriate to fund this entity in whole or in part with a city fire tax and a separate county fire tax.

*(Sparta Tackles continued from page 4)*

planned to add positions to do more maintenance work in house rather than contracting. These plans resulted in a need to raise water and wastewater rates – not just a little, but a lot. The city's governing body implemented a 52 percent rate increase via a two-step process. The first phase went into effect February 1, 2009. The second phase went into effect in July 2009.

Not many small cities are willing to bite off this much change in a short period of time. Sparta's governing body and employees are to be commended for their hard work and courage.

## Sustaining the Leader Pipeline in Johnson City

Gary Petree, MTAS Training Consultant

Several years ago, City Manager Pete Peterson and Human Resources Director Ed Fennell analyzed the staff's employment history and determined that 18 percent of Johnson City employees were eligible to retire within a year to 18 months. One-third of the staff would be eligible to retire within five years or less. Since retirements normally come from the ranks of the most seasoned and experienced employees, they needed a human resource sustainment plan, a depth chart of human capital that could fill vacancies at every level of supervision and management in the organization.

Peterson said the realization of just how many good people could leave in retirements stunned him and caused him to worry about the future of the organization. However, after three years using the MTAS Municipal Management Academy (MMA) training and development program, Peterson said, "I don't worry about it any more." Johnson City now has a pool of 150 on-board employees trained for service at higher levels of responsibility in public service.

Read more about Johnson City's efforts at the MTAS Web site: <http://www.mtas.tennessee.edu>.

For more information on MMA, please contact Gary Petree, MTAS Training Consultant, at [gary.petree@tennessee.edu](mailto:gary.petree@tennessee.edu) or 865-974-9830.

### Municipal Management Academy By the Numbers...

11,000 CEUs awarded  
1,100 classes taught  
4,400 hours of instruction  
140 levels of MMA completed  
42 participating cities

**Only 1 Municipal Management Academy...**

## MTAS Training Classes

### Municipal Administration Program

#### Managing Change When Resources are Unpredictable

Johnson City	August 11
Knoxville	August 12
Collegedale	August 13

### Certified Municipal Finance Officer Program.

#### Internal Control and Auditing

Spring Hill	August 4
McMinnville	August 12
Athens	August 12
Jackson	August 12
White House	August 19
Morristown	August 19
Jackson	August 19

### Elected Officials Academy Level II

Livingston City Hall	August 25
Legislative Process and Recreation Services	

### Urban Forestry Workshop

This course provides an overview of the purpose and importance of municipal urban forestry utilities and planning. Topics include an overview of the Tennessee Agricultural Enhancement Program administered by the Tennessee Department of Agriculture Division of Forestry; an overview of urban forestry programs, benefits and values; utility pruning concepts; and an introduction to Interface Forestry and the problems and opportunities urban growth and expansion present.

August 4	Germantown Athletic Club
August 5	Tennessee State University, Nashville
August 6	Pulaski City Hall
August 10	Morristown City Hall



## Building “Green” Fire Stations: A New Trend in Tennessee

Gary West, MTAS Fire Management Consultant

Many new and remodeled fire stations in Tennessee will be built to higher “green” standards in the future thanks to new environmental standards being implemented across the country as well as federal grant funding.

Many Tennessee fire departments recently applied for the Department of Homeland Security’s Assistance to Firefighters Fire Station Construction Grants (SCG), which requires new fire stations to be built “green;” however, a few fire departments already were in the process of building LEED (Leadership in Energy and Environmental Design) certified buildings before the grants became available. The United States Congress appropriated a total of \$210 million for the fiscal year 2009 program. The grant application deadline was July 10, 2009.

Chattanooga is one example of a city that was already in the construction phases when this grant became available. Chattanooga recently reopened station number 4 on Bragg Street in east



Station number 4 on Bragg Street



Tanks collect rain water for washing fire equipment

Chattanooga. The original station was constructed in 1955 and was torn down in March 2008. The new LEED building is now in place and operating after a construction cost of about \$1.3 million dollars. The overall calculated energy savings is approximately 30 percent according to the architect.

It is anticipated that Chattanooga will start construction soon on another station, and the LEED standards will be followed at an even higher level. Several other cities across the state either are in the process of building or have plans to build “green” fire stations. Federal grants will help fund many of the new construction projects.

For information on LEED requirements go to <https://www.usgbc.org/leed>.

## State Shared Taxes and Appropriations 2009-2010

Dick Phebus, MTAS Finance and Accounting Consultant

The first session of the 106th Tennessee General Assembly adjourned on June 19, 2009. Faced with substantial shortfalls in revenues for both fiscal years ending June 30, 2009, and June 30, 2010, the general assembly made significant reductions to both years’ original appropriations. Many of the reductions affected state departments and state universities, which were forced to trim original budget requests.

The municipal statutory share of state shared taxes was unaffected except for revenue growth projections. Based on economic projections for FY 2010, municipalities are expected to receive approximately \$102.47 per capita for the fiscal year beginning July 1, 2009. Last year, the projection was \$112.46 per capita.

Below is a breakdown of what municipalities can expect to receive in FY 2010. In cities that are in the process of adopting a budget or already have approved one, financial personnel should review this information to determine if adjustments to the budget are necessary.

### General Fund

State Sales Tax	\$ 64.44
State Beer Tax	\$ 0.52
Special Petroleum Products (City streets and transportation revenue)	\$ 2.15
Gross Receipts Tax (TVA in lieu of taxes)	\$ 9.89
<b>Total General Fund Revenue</b>	<b>\$ 77.00</b>

### State Street Aid Funds

Gasoline and Motor Fuel Taxes	\$ 25.47
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<b>Total Per Capita</b> (General and State Street Aid Funds)	<b>\$102.47</b>
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Also, there are:

- The Hall Income Tax. Statewide projections indicate very little growth due to economic conditions.

(Continued on page 8)



## Calendar of Events

### August 3-9

TPWI Basic Supervision in Public Works  
(Murfreesboro)

### August 5-7

TACP 39th Annual Conference  
(Chattanooga)

### August 14

TnPRIMA Middle Tennessee Regional Meeting  
(Lebanon)

### August 23-28

IAAI Annual Training Conference and Meeting  
(Pigeon Forge)

### August 25

“Redesigning Service Delivery: The Power of Partnerships” Alliance for Innovation Webinar  
(FREE to MTAS/TN members)

## Happy 60th Anniversary, MTAS!

The Tennessee Association of Municipal Clerks and Recorders (TAMCAR) would like to congratulate MTAS, which is celebrating its 60th year of service to the cities of our state.



Legislation created MTAS on April 15, 1949, following a proposal by the visionary Tennessee Municipal League Director Herb Bingham. MTAS's staff members are absolutely invaluable to all of us, offering education, consultation, research publications and patient assistance in answering our questions and helping to solve our problems in the field of municipal government. One of four agencies of the UT Institute for Public Service, MTAS just last year alone responded to over 9,600 requests for assistance and provided education totaling 38,700 hours to almost 10,000 participants.

We applaud the entire MTAS staff for a superb job!

(State Shared Taxes continued from page 7)

Amounts to individual cities will fluctuate. Due to recent market volatility it would be prudent to be somewhat conservative in estimating your city's revenue.

- The Corporate Excise Tax. Statewide projections indicate little growth. This tax is based on bank profits and is distributed based on situs in lieu of intangible personal property taxes. Cities must levy a property tax in order to receive revenue from this tax.
- The Mixed-Drink Tax. The statewide projected increase is 4 percent.
- The state appropriations bill (HB 2392/SB 2355) was adopted by the General Assembly near the end of the session. The public safety salary supplements for firefighters and police officers are to be funded at the same rate as for FY 2008. Upon completing certain in-service training requirements, qualified police officers and firefighters are eligible for annual bonus salary supplements of \$600 each.

For more information, please contact your MTAS Finance and Accounting Consultant.

## MTAS Staff Vacancies

MTAS has the following openings in our Knoxville office:

- IPS Consultant II. MTAS Legal Consultant
- IPS Consultant II. MTAS Training Consultant
- IPS Consultant III. MTAS Management Consultant

For complete descriptions of these positions, please visit the MTAS Web site at "[View job listings](#)" or call the Knoxville office at 865-974-0411.

*"Municipal E-News"* is provided by the University of Tennessee Municipal Technical Advisory Service in an effort to meet the challenge of providing timely, valuable information and assistance to Tennessee cities to build better communities.

If you have any questions or comments related to this newsletter please contact Frances Adams-O'Brien at [frances.adams-obrien@tennessee.edu](mailto:frances.adams-obrien@tennessee.edu).

... in cooperation with the Tennessee Municipal League